



## THE LOST CHILDREN OF THE BORDER CRISIS

No one has escaped the consequences of Biden's border crisis, even children. In March 2022, over 14,000 unaccompanied alien children (UACs) illegally crossed the southern border—enough to fill more than 26 middle schools.<sup>1</sup> More concerning still, thousands of them cannot be traced while they are awaiting their immigration hearing with sponsors under the management of the Office of Refugee Resettlement (ORR). Congress can act to ensure that both Americans and UACs are protected.

### BACKGROUND

- **After Biden dismantled important border policies, illegal border crossings have been on the rise, including those of UACs.<sup>2</sup>**
  - Department of Homeland Security (DHS) Secretary Alejandro Mayorkas promised not to expel UACs, effectively inviting them to enter whether they have an asylum claim or not.<sup>3</sup>
  - A UAC is a child under the age of 18 who crosses the border without lawful immigration status or a parent or legal guardian to legally care for them.<sup>4</sup>
  - The number of UACs crossing the border reached an all-time high in fiscal year (FY) 2021 with 146,925 children—nearly twice the previous record of 76,136 in FY 2019.<sup>5</sup> That amounts to over 400 children per day crossing the border—enough to fill 5 school buses every day.<sup>6</sup>
  - ORR reported that 72% of the UACs in FY 2021 were over 14 years old.<sup>7</sup>
- **UACs are transferred to the care of the Department of Health and Human Services (HHS) after they are apprehended by U.S. Customs and Border Patrol (CBP) to await their immigration hearing.<sup>8</sup>**
  - There is an exception for children apprehended from Mexico and Canada. The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 allows those children to be returned to Mexico or Canada.<sup>9</sup>
  - All other children are entrusted to HHS within 72 hours of their arrival. ORR, an office within HHS, is then charged with caring for children or placing them with sponsors to await their immigration hearing. Sponsors are often a parent or relative already in the U.S.<sup>10</sup> ORR houses UACs in shelters located in Texas and California until a suitable sponsor is found.<sup>11</sup>
- **HHS has routinely demonstrated that they lose many of the children in their care.**
  - HHS policy requires that a “Safety and Well Being Follow Up” phone call must be conducted within 30 days after the child's release to a sponsor. On the call, the provider should determine if the child is still with the sponsor, enrolled in school, and safe. The provider should document the call and if they were unable to contact them.<sup>12</sup>
  - Between January and May 2021, one third of safety calls were not answered.<sup>13</sup> ORR was unsuccessful at contacting 4,890 children for whom they were responsible.<sup>14</sup> Worse yet, ORR should have made 32,000 follow up calls but only about 15,000 were even attempted.<sup>15</sup>

- The trend continues beyond May 2021. HHS reported in a letter to Congressman Andy Biggs that between January 2021 and February 2022, 108,981 calls to sponsors were made and 19,726 of the sponsors could not be reached.<sup>16</sup>
- HHS's explanation for losing children is that "[t]here are a number of reasons why a sponsor may not answer a phone call, including not recognizing the phone number or not wishing to speak with government officials."<sup>17</sup> HHS loses track of children and moves on, ignoring the possibility of abuse, trafficking, or induction into a gang.
- Further, HHS confirmed that the immigration status of many children's sponsors is not verified.<sup>18</sup>
- **The consequences of not properly caring for these children are dire.**
  - Without communication, HHS officials are not able to ensure that children are in a safe environment. The children may be trafficked or abused without any accountability from HHS.
  - DHS warns that "kids are being rented" or "recycled" in a scheme where children are smuggled back into Central America, only to be sent to America again with fraudulent families. From April 2019 to March 2019, CBP identified 3,100 of these fraudulent families.<sup>19</sup> Without properly caring for children who are apprehended, they may be trafficked for another fake family.

## POLICY SOLUTIONS

UACs will remain in danger if these trends continue. Congress can act to ensure that UACs are properly treated and safe. For example:

- Congress may hold HHS and ORR accountable for performing safety checks and calls as the law requires. Congress can require additional transparency of ORR and HHS. For example, HHS could notify governors when UACs are placed in their respective states.
- Congress may require DHS to fingerprint all aliens apprehended at the border. Currently, DHS may only take fingerprints for those over the age of 14 years old.<sup>20</sup> With the proper securities in place, fingerprints for each individual could help CBP officers identify cases of trafficking and abuse.
- Congress may reduce factors that pull children to the border. Reducing pull factors benefits both the children who may not make the dangerous journey and the United States who will not be charged with the impossible task of protecting thousands of these children.
  - For example, Congress could require DHS to receive a sponsor's immigration status before allowing the child to be released.<sup>21</sup> Children are guaranteed entry into the country once they arrive and within days sent to their family members who may have also entered illegally, making it more likely for children to make the dangerous journey to the border.
  - Congress may also close loopholes in the TVPRA which treat children from noncontiguous countries differently from those from Mexico and Canada. Because of their status as a UAC, these children are prohibited from being removed immediately. Rather, they are given numerous benefits while they await their hearing regardless of if they have a legitimate claim to be here.<sup>22</sup>
  - Congress may also cancel the Central American Minors (CAM) Refugee and Parole Program.<sup>23</sup> The CAM program began during the Obama administration and allows children of parents or guardians who are in the United States to apply for refugee status. Yet, the program generously awards parole for children and parents who do not initially qualify, thereby creating yet another avenue for children to arrive and stay in the United States.

- <sup>1</sup> “Southwest Land Border Encounters.” U.S. Customs and Border Protection. <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> and Riser-Kositsky, “Education Statistics: Facts About American Schools.” Education Week. January 3, 2019. <https://www.edweek.org/leadership/education-statistics-facts-about-american-schools/2019/01>
- <sup>2</sup> See more with RPC’s Guide “Policies that Led to the Biden Border Crisis.” chrome-extension://efaidnbmnnpbpcapcglclefindmkaj/viewer.html?pdfurl=https%3A%2F%2Fpublicpolicy.house.gov%2Ffiles%2Fmedia-document%2FBiden%2520Border%2520Crisis\_0.pdf&clen=203116&chunk=true
- <sup>3</sup> “Statement by Homeland Security Secretary Alejandro N. Mayorkas Regarding the Situation at the Southwest Border.” U.S. Department of Homeland Security. March 16, 2021. <https://www.dhs.gov/news/2021/03/16/statement-homeland-security-secretary-alejandro-n-mayorkas-regarding-situation>
- <sup>4</sup> Kandel, William. “Unaccompanied Alien Children: An Overview.” Congressional Research Service. September 1, 2021. <https://www.crs.gov/Reports/R43599?source=search&guid=13ec127274b04a70a0c8c5196c907dca&index=1>
- <sup>5</sup> “Southwest Land Border Encounters.” U.S. Customs and Border Protection. <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> and “Southwest Border Migration FY 2019.” U.S. Customs and Border Protection <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2019> and Arthur, Andrew. “Biden Administration Lost-- Yes, Lost- Nearly 20,000 Migrant Children.” Center for Immigration Studies. March 2, 2022. <https://cis.org/Arthur/Biden-Administration-Lost-Yes-Lost-Nearly-20000-Migrant-Children>
- <sup>6</sup> Calculated using average capacity of 80 passengers. <https://www.schoolbusfleet.com/school-bus-faq#4>
- <sup>7</sup> “Fact Sheet: Unaccompanied Children Program.” Administration for Children and Families. February 17, 2022. <https://www.hhs.gov/sites/default/files/uac-program-fact-sheet.pdf>
- <sup>8</sup> Arthur, Andrew. “Biden Administration Lost-- Yes, Lost- Nearly 20,000 Migrant Children.” Center for Immigration Studies. March 2, 2022. <https://cis.org/Arthur/Biden-Administration-Lost-Yes-Lost-Nearly-20000-Migrant-Children>
- <sup>9</sup> Kandel, William. “Unaccompanied Alien Children: An Overview.” Congressional Research Service. September 1, 2021. <https://www.crs.gov/Reports/R43599?source=search&guid=13ec127274b04a70a0c8c5196c907dca&index=1>
- <sup>10</sup> Ibid.
- <sup>11</sup> Ibid.
- <sup>12</sup> “Children Entering the United States Unaccompanied: Section 2” Office of Refugee Resettlement. <https://www.acf.hhs.gov/orr/policy-guidance/children-entering-united-states-unaccompanied-section-2> (Section 2.8.4)
- <sup>13</sup> Kight, Stef. “Exclusive: Government can’t reach one-in-three released migrant kids.” Axios. September 1, 2021. <https://www.axios.com/migrant-children-biden-administration-a597fd98-03a7-415c-9826-9d0b5aaba081.html>
- <sup>14</sup> Arthur, Andrew. “Report: Government Can’t Locate a Third of Alien Children it Released.” Center for Immigration Studies. September 2, 2021. <https://cis.org/Arthur/Report-Government-Cant-Locate-Third-Alien-Children-It-Released>
- <sup>15</sup> Arthur, Andrew. “Report: Government Can’t Locate a Third of Alien Children it Released.” Center for Immigration Studies. September 2, 2021. <https://cis.org/Arthur/Report-Government-Cant-Locate-Third-Alien-Children-It-Released> and Kight, Stef. “Exclusive: Government can’t reach one-in-three released migrant kids.” Axios. September 1, 2021. <https://www.axios.com/migrant-children-biden-administration-a597fd98-03a7-415c-9826-9d0b5aaba081.html>
- <sup>16</sup> Biggs, Andy. Twitter. March 1, 2022. [https://twitter.com/RepAndyBiggsAZ/status/1498691224953360388?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1498691224953360388%7Ctwgr%5E%7Ctwcon%5Es1\\_&ref\\_url=https%3A%2F%2Fcis.org%2FArthur%2FBiden-Administration-Lost-Yes-Lost-Nearly-20000-Migrant-Children](https://twitter.com/RepAndyBiggsAZ/status/1498691224953360388?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1498691224953360388%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fcis.org%2FArthur%2FBiden-Administration-Lost-Yes-Lost-Nearly-20000-Migrant-Children)
- <sup>17</sup> Biggs, Andy. Twitter. March 1, 2022. [https://twitter.com/RepAndyBiggsAZ/status/1498691224953360388?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1498691224953360388%7Ctwgr%5E%7Ctwcon%5Es1\\_&ref\\_url=https%3A%2F%2Fcis.org%2FArthur%2FBiden-Administration-Lost-Yes-Lost-Nearly-20000-Migrant-Children](https://twitter.com/RepAndyBiggsAZ/status/1498691224953360388?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1498691224953360388%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fcis.org%2FArthur%2FBiden-Administration-Lost-Yes-Lost-Nearly-20000-Migrant-Children) and Arthur, Andrew. “Biden Administration Lost-- Yes, Lost- Nearly 20,000 Migrant Children.” Center for Immigration Studies. March 2, 2022. <https://cis.org/Arthur/Biden-Administration-Lost-Yes-Lost-Nearly-20000-Migrant-Children>
- <sup>18</sup> Biggs, Andy. Twitter. March 1, 2022. [https://twitter.com/RepAndyBiggsAZ/status/1498691224953360388?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1498691224953360388%7Ctwgr%5E%7Ctwcon%5Es1\\_&ref\\_url=https%3A%2F%2Fcis.org%2FArthur%2FBiden-Administration-Lost-Yes-Lost-Nearly-20000-Migrant-Children](https://twitter.com/RepAndyBiggsAZ/status/1498691224953360388?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1498691224953360388%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fcis.org%2FArthur%2FBiden-Administration-Lost-Yes-Lost-Nearly-20000-Migrant-Children)
- <sup>19</sup> Marchant, Nomaan. “Border Patrol expands fingerprinting of migrant children.” Associated Press. April 26, 2019. <https://apnews.com/article/immigration-yuma-north-america-us-news-ap-top-news-8a2c21ef9cc34638a9e54a19466dc867> and Fry, Wendy. “Authorities investigate reports of migrants trying to buy children to enter the U.S.” The Seattle Times. June 30, 2019. <https://www.seattletimes.com/nation-world/authorities-investigate-reports-of-migrants-trying-to-buy-children-to-enter-the-u-s/>
- <sup>20</sup> Kimery, Anthony. “DHS, ICE have been fingerprinting unaccompanied alien children longer than reported.” Biometric Update. February 21, 2020. <https://www.biometricupdate.com/202002/dhs-ice-have-been-fingerprinting-unaccompanied-alien-children-longer-than-reported>
- <sup>21</sup> “Action the Biden-Harris Administration Has Taken to Address the Border Challenge.” The White House. June 15, 2022. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/15/action-the-biden-harris-administration-has-taken-to-address-the-border-challenge/>
- <sup>22</sup> Ries, Lora. “How the Left Uses Children as Pawns in Immigration Policy.” Heritage Foundation. August 16, 2021. <https://www.heritage.org/immigration/commentary/how-the-left-uses-children-pawns-immigration-policy>
- <sup>23</sup> “Central American Minors (CAM) Refugee and Parole Program.” U.S. Citizenship and Immigration Services. September 14, 2021. <https://www.uscis.gov/CAM>